

Remarks
submitted May 2010

[001] This is a Response to the Office Action dated 19 January 2010.

[002] Amendments [none, at this time.]

[003] Election /Restrictions

The O/A states:-

Applicant argues that the Examiner ignored two CA patents that have been properly and fully cited in the international PCT Search Report. In response, Examiner submits the two CA references were not ignored.

With respect, the examiners have indeed *ignored* the PCT-cited patents -- by not considering them.

Of course, PTO examiners must consider the prior art cited in a PCT Search Report. MPEP.1893.03(g) makes it clear that a very careful explanation is needed, from the examiners, in order to justify a refusal to consider prior art cited in a PCT Search Report.

The examiners explain their reasoning for ignoring the PCT Search Report as follows.

.. the listing of references in the [PCT] Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98.

Rule 1.98, at least as to its purely-formal requirements, is a national formality rule. The PCT does not have those provisions. Article 27 of the PCT makes it clear that National Offices are not allowed to impose non-PCT-derived formalities on PCT-derived patent applications.

Applicants request that the missing references be properly considered, and that that fact be properly recorded.

[004] Claim Objections

The dash in line 3 is deliberate, not inadvertent. It serves to emphasize the link between clause [2] and clauses [3] to [6] -- as pointed out in